

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

COURTNEY LAUGHMAN Personal)
Representative of the Estate of Gustin Martin,)

Plaintiff,)

v.)

No. 1:20-cv-02154-TWP-TAB

ROBERT BAKER in his official and individual)
capacity as Chief of Police of the City of Kokomo)
Police Department, et al.)

Defendants.)

**ENTRY SCREENING COMPLAINT AND
DISMISSING CERTAIN INSUFFICIENT CLAIMS**

Although this action that was removed to this Court on August 14, 2020, was filed by counsel and the filing fee has been paid, the Court shall screen the complaint under its inherent authority to do so. *See Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 307-08 (1989) (*in forma pauperis* statute “authorizes courts to dismiss a ‘frivolous or malicious’ action, but there is little doubt they would have power to do so even in the absence of this statutory provision.”); *Rowe v. Shake*, 196 F.3d 778, 783 (7th Cir. 1999) (“district courts have the power to screen complaints filed by all litigants, prisoners and non-prisoners alike, regardless of fee status.”).

The personal representative of Gustin Martin brings this action against numerous individuals and entities in their individual and official capacities based on allegations that Mr. Martin died of a drug overdose on July 22, 2018, after being arrested by Kokomo Police Officers and taken to the Howard County Jail ("the Jail"). The plaintiff brings state law tort claims of negligence and constitutional claims under the Fourteenth Amendment pursuant to 42 U.S.C. § 1983. The plaintiff seeks damages.

The complaint alleges that Mr. Martin was at different times in the custody of the Kokomo police officers as well as the Sheriff of Howard County. Details of who was responsible for what will be clarified through this litigation. For purposes of this screening, however, a few of the defendants are improper at the pleading stage.

To the extent the Jail is named as a defendant, any claim against it is **dismissed for failure to state a claim upon which relief can be granted** because a Jail is a building, not a "person" capable of being sued under section 1983. *See White v. Knight*, 710 F. App'x 260, 262 (7th Cir. 2018).

The claims against Howard County and individual commissioners Paul Wayman, Tyler Moore, and Brad Bray are **dismissed for failure to state a claim upon which relief can be granted** because county commissioners do not control the Sheriff nor are they responsible for conditions at the Jail. *Holland v. City of Gary*, 533 F. App'x 661, 662 (7th Cir. 2013); *see also* Ind. Code 36-2-13-5(a)(7) (The sheriff shall "take care of the county jail and the prisoners there"). County commissioners are statutorily responsible for building and maintaining a county jail in good repair, but they have no control over actions of county sheriffs or the administration of the jail. *Waldrip v. Waldrip*, 976 N.E.2d 102, 118-19 (Ind. Ct. App. 2012).

The claims against the unknown John Doe officers are **dismissed** because "it is pointless to include [an] anonymous defendant[] in federal court; this type of placeholder does not open the door to relation back under *Fed. R. Civ. P.* 15, nor can it otherwise help the plaintiff." *Wudtke v. Davel*, 128 F.3d 1057, 1060 (7th Cir. 1997) (internal citations omitted). When the names of these defendants become known, a motion to amend the complaint may be filed.

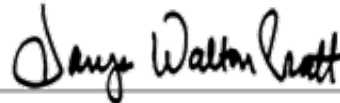
The clerk is directed to terminate as defendants Howard County, Paul Wayman, Tyler Moore, Brad Bray, and John Doe employees. No partial final judgment shall issue at this time with respect to the claims dismissed in this Entry.

If the plaintiff believes the Court has misconstrued any of the claims dismissed in this Entry, she may file a motion to reconsider the screening Entry **not later than October 21, 2020**.

This screening Entry does not preclude any defendant from filing a motion to dismiss for failure to state a claim under Rule 12(b)(6).

IT IS SO ORDERED.

Date: 9/23/2020



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

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